

**Amherst Historical Society and Museum  
Responses to CPAC Questions  
January 2016**

**Mission Statement**

The mission of the Amherst Historical Society is to connect people to the Town of Amherst, its history, and its culture.” (adopted October 2012)

**Vision Statement**

We believe in the power of history to ignite imagination, stimulate thought, and provide enjoyment.

The goals of the Amherst Historical Society are to collect, preserve, and display an extensive variety of objects that give residents and visitors an appreciation of the many aspects of life in Amherst. Central to these goals is the presentation of exhibits, lectures, and public events, as well as educational programs that engage people of all ages with the challenge of interpreting artifacts and records from the past. The Society governs the Amherst History Museum, which is located in the 1750-era Simeon Strong House, 67 Amity Street, in the center of town. (adopted October 2012)

**Amherst Historical Society**

**Questions for Society**

**Title & legal work:**

**Can you provide expert or legal advice about whether clearing title and seeking relief from a will qualifies as historic preservation?**

Certainly and gladly.

1. Senior Planner Nate Malloy indicated in our correspondence last fall that, because the Town has already disbursed CPA funds to pay some of our legal fees for this ongoing work (from the remaining appropriation for our feasibility study whose continued funding we are seeking here), the precedent is established and the issue does not need to be revisited.

However, for the sake of thoroughness:

2. We can also cite suggestive similar examples from CPA appropriations in other locales:

- In 2006, Medway appropriated money: “To fund the litigation settlement costs for a piece of property acquired by the Town by eminent domain for CPA purposes TBD [which listed all four CPA categories—thus including historic preservation—as possible uses].”

[https://tpl.quickbase.com/db/bcstvw3d3?a=API\\_GetRecordAsHTML&key=3994](https://tpl.quickbase.com/db/bcstvw3d3?a=API_GetRecordAsHTML&key=3994)

- In 2006, Georgetown appropriated money “For legal expenses related to the Union Cemetery fence project, including costs associated with determining the lot lines of the property boundaries, costs associated with the revival of the Union Cemetery Corporation, and current cost feasibility inquiries”

[https://tpl.quickbase.com/db/bcstww3d3?a=API\\_GetRecordAsHTML&key=3820](https://tpl.quickbase.com/db/bcstww3d3?a=API_GetRecordAsHTML&key=3820)

- In 2011, Harwich appropriated “a sum of money to be administered by the Town Administrator to pay for professional/legal services related to the potential acquisition of specific parcels of land that are in tax title or owners unknown which would qualify for CPA funding, i.e., affordable housing, historic preservation, conservation or recreation.”

[https://tpl.quickbase.com/db/bcstww3d3?a=API\\_GetRecordAsHTML&key=33098](https://tpl.quickbase.com/db/bcstww3d3?a=API_GetRecordAsHTML&key=33098)

- In 2012, Hamilton appropriated funds for “Legal and closing costs” for acquisition of a historic property.

[https://tpl.quickbase.com/db/bcstww3d3?a=API\\_GetRecordAsHTML&key=33362](https://tpl.quickbase.com/db/bcstww3d3?a=API_GetRecordAsHTML&key=33362)

3. Even more clearly: In the case of structures qualifying for historic preservation tax credits, the National Park Service explains, “Increases to basis [value of a property—JW] include capital improvements, *legal fees incurred in perfecting title* [emphasis added—JW], zoning costs, etc.”

<http://www.nps.gov/tps/tax-incentives/before-apply/irs-faq3.htm>

4. More generally, seeking relief from testamentary restrictions is relatively common in the field of house museums and historic preservation. The simple reason is that the founders of these institutions made what they at the time considered the best arrangements for the future. They were good stewards—but not prophets. Fifty or a hundred years or more later, those measures often reveal themselves not only to be inadequate, but actually to constitute obstacles to preservation and good stewardship under vastly different modern conditions.

This principle is well established by legal precedent: The rationale is the doctrine of “reasonable deviation,” which states that changes may be made in order to maintain the primary intent of the donor. (*Trustees of Dartmouth College v. Quincy*, 357 Mass. 521, 531 [1970]).

We may cite two examples close to home.

- The trustees of the body governing The Evergreens (the home of Emily Dickinson’s brother Austin) twice sought relief in probate court—the first time, in 1990, overturning a clause that required the house to be demolished if sold, and again in 2003, so that the structure and assets could be transferred to Amherst College, which owned the adjoining Dickinson Homestead. The resultant merger created the Emily Dickinson Museum as we now know it.

- Even better known and more similar to our case is that of the Isabella Stewart Gardner Museum on The Fenway in Boston. According to Mrs. Gardner’s will, her collections and the house displaying them were to be maintained unchanged, and failing that, the building, collections, and land would be turned over to Harvard. The Museum successfully sought permission to construct an addition on the property on the grounds that “Excessive wear and tear endangered the art collection and the historic

Palace building” and that “Inadequate space inhibited visitors' access to the Museum and limited Museum programming and administrative capacity.” The expansion plan even entailed demolition of a historic outbuilding, whose preservation could not be accommodated in the new construction plan. A Massachusetts court approved this request for relief in 2009 on the grounds that: “the Gardner’s proposed project is a reasonable deviation from subordinate terms of the charitable gift in the Will of Isabella Gardner. It is driven by the primary purpose of the charitable gift. It is entirely consistent with the primary purpose.” The Museum’s plan won the support of the Massachusetts Historical Commission, Boston Landmarks Commission, and Boston Preservation Alliance. (Gardner Museum v. Martha Coakley, et al., Commonwealth of Massachusetts Supreme Judicial Court for Suffolk County; Isabella Stewart Gardner Museum press release, 9 March 2009; summary in the general press, via *New York Times*: [http://www.nytimes.com/2009/03/15/arts/design/15good.html?\\_r=0](http://www.nytimes.com/2009/03/15/arts/design/15good.html?_r=0))

**Lawyer’s fee for clearing the title, why is this needed now? Is it really for the library expansion?**

The answer flows directly from the response to the preceding question. To address the two in reverse order:

(2) No, we are not undertaking this because of the Library expansion, though it is a prerequisite for any agreement we might hope to conclude with our neighboring institution.

(1) Rather: This is an essential part of good stewardship and due diligence. The 2002 Historic Structure Report (Appendix I, p. 5) notes in the research into the Chain of Title, under the year:

Alma Emerson Miller pre-deceased her sisters and apparently left them her share, but no probate records have been located for her. Smith Affidavit of Heirship, 1989.

No action was taken in the intervening years though it should have been. The negotiations with the Library simply brought this longstanding issue back to the center of attention. Lack of a clear title could pose an obstacle to a whole range of steps we might wish to take with the property but it is an actual obstacle to any cooperation we might enter into with the Library.

**If you give away the historic lawn for a library expansion, how is that historic preservation for this building?**

1) Fortunately, we are not “giving away” anything.

2) To the extent that we cede any part of our property or rights pertaining thereunto, it would be in exchange for a quid pro quo in the form of monetary payment, which, in accordance with museum ethics, would serve to support our core mission of maintenance of the collection (e.g. through establishment of an endowment). We remind you here that, in this case, preservation pertains to both the building and the collections that it houses. Town Meeting has on several occasions funded measures for the conservation of the objects in our collection.

Our goals are set forth in our vision statement (which in turn derives from the charter granted by the Commonwealth in 1903):

to collect, preserve, and display an extensive variety of objects that give residents and visitors an appreciation of the many aspects of life in Amherst. Central to these goals is the presentation of exhibits, lectures, and public events, as well as educational programs that engage people of all ages with the challenge of interpreting artifacts and records from the past

As we explained in our original application, it is because our current historic building does not allow for proper conservation and display of our collections, or for sufficient program space and full visitor accessibility that we have for over five years been contemplating an addition to the museum structure.

**Please clarify Jones Library's plans to move forward, possibly to merge, how will this affect the museum?**

**Will the library absorb or annex the museum?**

That is not the desire of either party and was never contemplated. The Historical Society has its own charter granted by the Commonwealth and its own nonprofit status as a 501(c)3.

Rather, given the similarity in *parts* of our missions as custodians of the town's documentary and material heritage, respectively—and we may note that, under its charter, the Historical Society was to be the host of a library of historic town documents, a role it played before the Jones came into existence—and the contiguity of our institutions, it is only logical that we should develop a plan for shared modern space for collections and exhibitions superior to what either can now provide while avoiding needless duplication of services and facilities.

**Dendrology –**

**Can we have more explanation of value of dendrology study?**

Certainly. To begin with, the term (it is a relatively new one) is “*dendrochronology*.” The leading regional preservation organization Historic New England (formerly: Society for the Preservation of New England Antiquities—SPNEA—founded by pioneering preservationist William Sumner Appleton in 1910) defines it in our context as “a scientific method of dating wooden timbers based on the analysis of tree rings.” (“Dendrology,” by contrast, is the study and classification of woody plants such as trees and shrubs.)

Far more complex than mere counting of tree rings, dendrochronology as a science depends on a painstakingly assembled master reference chronology of specific wood types from a given region. The resultant research permits extremely precise dating of building timbers and in the process also sheds valuable light on the environmental and social context in which the structure was created. (<http://www.historicnewengland.org/preservation/your-older-or-historic-home/frequently-asked-questions-for-old-house-owners#where-can-i-find-1> and further links there).

For example, this science has been used to striking effect to determine the origins and histories of structures ranging from buildings at Mount Vernon (<https://ncptt.nps.gov/blog/dennis-pogue-podcast/>) or the house of the mayor of Colonial Williamsburg

([http://www.history.org/Foundation/journal/Spring02/dendro\\_in\\_context.cfm](http://www.history.org/Foundation/journal/Spring02/dendro_in_context.cfm)) to the residence of an enslaved African on the plantation of Andrew Jackson (<http://www.bioone.org/doi/abs/10.3959/2008-10.1>).

### **Why would knowing the age of the wood help preserve the building?**

The answer is self-evident to preservationists, but we realize that it is not obvious to the general public, so we welcome the chance to explain.

Dendrochronology is one of the major “science-based methods in historic preservation.” (<http://link.springer.com/article/10.1023%2FA%3A1012419025537>)

All preservation efforts must begin from the best possible knowledge of what we are seeking to preserve. It is therefore established practice to use CPA funds for historic preservation surveys, inventories, and related tasks. These may apply to districts and landscapes or to individual buildings. In the latter case, as the standard textbook in the field (Tyler, Ligibel, and Tyler, 2<sup>nd</sup> ed., 2009) puts it, serendipitously using a metaphor germane to our purpose here: “The process of determining a structure’s historical and architectural significance forms the trunk of the tree from which all other limbs of preservation grow.” At the center of researching that history is thus the historic structure report, which, it explains, “guides the restoration of a building, much as a roadmap guides the traveler to his or her destination.”

National Park Service Preservation Brief 43, on “Preparation and Use of Historic Structure Reports”:

A historic structure report provides documentary, graphic, and physical information about a property's history and existing condition. Broadly recognized as an effective part of preservation planning, a historic structure report also addresses management or owner goals for the use or re-use of the property. It provides a thoughtfully considered argument for selecting the most appropriate approach to treatment, prior to the commencement of work, and outlines a scope of recommended work. The report serves as an important guide for all changes made to a historic property during a project-repair, rehabilitation, or restoration-and can also provide information for maintenance procedures.

And:

“Just as an art conservator would not intervene in the life of an artistic artifact before obtaining a thorough knowledge of its history, significance, and composition, so those engaged in the preservation of buildings...should proceed only from a basis of knowledge. Too often in the past, the cultural integrity of countless buildings...has been compromised by approaches to restorations grounded on personal whim, willful romanticism, and expedient notions of repair...The preparation of a historic structure report is the first step in adopting a disciplined approach to the care of a historic building.” (From the introduction to *The University of Virginia, Pavilion 1*, Historic Structure Report, Mesick Cohen Waite Hall Architects, 1988.)

Further:

If work proceeds without a historic structure report to guide it, it is possible that physical evidence important to understanding the history and construction of the structure may be destroyed or that inappropriate changes may be made. The preparation of a report prior to initiation of work preserves such information for future researchers. Even more importantly, prior preparation of a report helps ensure that the history, significance, and condition of the property

are thoroughly understood and taken into consideration in the selection of a treatment approach and development of work recommendations. One of the goals of a historic structure report is to reduce the loss of historic fabric or significance and to ensure the preservation of the historic character of the resource.

As you have seen from our application and the above, the 2002 Historic Structure Report is a fundamental guide to our stewardship of the 1750s-era Strong House. However, a great deal has changed in the last decade and a half. As our consultant, William Flynt of Historic Deerfield (<http://www.historic-deerfield.org/discover-deerfield/summer-fellowship-program/sfp-faculty/>), explained: the techniques of dendrochronology applied to historic structures of New England were perfected only recently; had they been available in 2002, they would have been used in our Historic Structure Report. Our request for CPA funding here thus represents our intention to complement or complete that document guiding our responsible preservation practice. Dendrochronology offers the only hope of resolving the remaining mysteries as to the date of the original building and sequence of additions and alterations, which have long been controversial.

**Other:**

**Is funding of one portion of request without the others feasible? If not, why not?**

They are distinct from one another,<sup>1</sup> though we regard all as important and timely, or we would not have submitted the proposals together.

**How are you leveraging the funds the town has previously given you?**

If the question applies to matching funds, we have not yet found a source for such support: it can be difficult for small local organizations to obtain major grants. However: because we are dependent on private donations to fund our very lean operating budget, CPA funds have proven essential to covering the major projects that our limited resources cannot support.

We would moreover argue that we do in fact “leverage” these Town monies to the extent that CPA funding is a vote of confidence in our professionalism and stewardship, and this—along with the resultant dissemination of news about our projects and our mission—helps us in our fundraising campaigns. Thus, for example, income from solicitations rose from about \$4500 to \$7000 last year (out of a total of some \$19,000 from the public), and we hope to keep increasing the amount.

We note that the total sum requested is a very modest one in the context both of other CPA preservation requests, and of the overall pool of CPA funds available. We therefore hope that the above explanations will lead you to support these carefully chosen proposals as you have in the past.

Respectfully submitted,

Jim Wald  
Amherst Historical Society

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<sup>1</sup> Although: as noted, the carpentry work, for which we are requesting funds this year, must precede the repainting, funds for which Town Meeting allocated last year.